

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA) Case No. C 14-0780 SC
Plaintiff,)
v.) ORDER GRANTING MOTION OF THE
\$209,815 IN UNITED STATES) UNITED STATES TO COMPEL ANSWERS
CURRENCY,) FROM JULIO FIGUEROA TO SPECIAL
Defendant.) INTERROGATORIES

JULIO FIGUEROA,)
Claimant.)

I. INTRODUCTION

Now before the Court is Plaintiff United States of America's ("Plaintiff") motion to compel answers from Julio Figueroa ("Claimant") to special interrogatories. ECF No. 21 ("Mot."). The motion is fully briefed, ECF Nos. 21, 29 ("Opp'n"), and 36 ("Reply"), and appropriate for resolution without oral argument, Civ. L.R. 7-1(b). The motion is GRANTED, as explained below.

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1 **II. BACKGROUND**

2 This is a civil forfeiture case arising out of \$209,815 in
3 United States currency ("the currency") seized from Claimant's
4 checked luggage at the San Francisco International Airport ("SFO")
5 on September 27, 2013. ECF No. 1 ("Compl.") ¶ 1. While the
6 precise factual circumstances underlying the interaction between
7 DEA Agents and the Claimant remain an issue of contention among the
8 parties, the Court need not resolve those issues on the present
9 motion. See ECF Nos. 18, 39, 42 (describing Claimant's pending
10 motion to suppress and subsequent briefing).

11 On February 20, 2014, Plaintiff filed a complaint for civil
12 forfeiture under 21 U.S.C. Section 983 arguing that the currency is
13 subject to forfeiture as "moneys . . . furnished or intended to be
14 furnished by [a] person in exchange for a controlled
15 substance . . . [,] proceeds traceable to such an exchange, [or]
16 money[] . . . used or intended to be used to facilitate a violation
17 of [Subchapter I, Chapter 13 of Title 21, United States Code]." 21
18 U.S.C. § 881(a)(6). Claimant intervened, filing a verified claim
19 and answer as required under the statute, and asserting "an
20 ownership and possessory interest in, and the right to exercise
21 dominion and control over[] all the defendant property." See ECF
22 Nos. 11 ("Claim"); 14 ("Answer"). See also 18 U.S.C. §
23 983(a)(4)(A), (B); Supp. R. G(5).

24 Shortly thereafter, Plaintiff timely served on Claimant ten
25 special interrogatories pursuant to Supplemental Rule G(6) for
26 Certain Admiralty and Maritime Claims requesting, among other
27 things, information related to Claimant's (1) circumstances of
28 acquiring the currency, (2)records relating to the currency, (3)

1 the source of the currency, (4) facts supporting Claimant's claims
2 of ownership and possessory interests in the currency, and (5) the
3 identity of persons having knowledge of Claimant's interest in the
4 currency. ECF No. 22 ("Kenney Decl.") Ex. A, Nos. 2-10. Claimant
5 objects to these interrogatories, arguing primarily that they seek
6 information beyond the scope of discovery permitted under
7 Supplemental Rule G(6)(a). Opp'n at 2-3. Claimant further argues
8 in his objections to Plaintiff's interrogatories that the requests
9 are (1) "overly broad, burdensome, and oppressive," and (2) seek
10 information in violation of Claimant's Fourth Amendment right
11 against unreasonable searches and seizures. Kenney Decl. Ex. B.
12 After raising these objections, Claimant's responses do little more
13 than restate Claimant's assertion of ownership and possession of
14 the currency in his verified claim. Id. Now Plaintiff seeks to
15 compel further answers to nine of the special interrogatories, but
16 Claimant still refuses. See Opp'n at 2-3.

17

18 **III. DISCUSSION**

19 The Federal Rules of Civil Procedure authorize party-initiated
20 discovery of any evidence that is relevant to any party's claims or
21 defenses. Fed. R. Civ. P. 26(b)(1). However, discovery under Rule
22 26 is generally barred prior to the initial case management
23 conference. See Fed. R. Civ. P. 26(d)(1). Nevertheless, in the
24 particular context of forfeiture proceedings, Supplemental Rule
25 G(6) applies, which "supersedes the discovery 'moratorium' of Rule
26 26(d)," and permits the government to file "limited interrogatories
27 at any time after a claim is filed to gather information that bears
28 on the claimant's standing." Advisory Committee Note to Subd. 6 of

1 Supp. R. G. While the scope of this rule is limited, the Ninth
2 Circuit has stated that the rule "broadly allows the government to
3 collect information regarding the claimant's relationship to the
4 defendant property," and "contemplates that the government may seek
5 information beyond the claimant's identity and type of property
6 interest." United States v. \$133,420, 672 F.3d 629, 642 (9th Cir.
7 2012).

8 Here, Claimant argues that because the scope of Supplemental
9 Rule G(6) is limited to information bearing on Claimant's standing,
10 and his responses to Plaintiff's special interrogatories and
11 verified claim are sufficient to establish his standing at this
12 stage, any further discovery necessarily exceeds the scope of the
13 Rule. However, the Ninth Circuit has expressly rejected this
14 argument, and found interrogatory responses virtually identical to
15 those offered by counsel in this case insufficient. Id. at 642-43
16 ("[Claimant's] premise that the only information relevant to
17 standing is the claimant's identity and interest in the defendant
18 property is simply incorrect"). Just as in \$133,420,
19 Claimant's proffered narrow interpretation of Supplemental Rule
20 G(6) would render Supplemental Rule G(5)(a)(i)(B), which already
21 requires a verified claim to "identify the claimant and state the
22 claimant's interest in the property," superfluous. Id. (quoting
23 Spencer Enters., Inc. v. United States, 345 F.3d 683, 691 (9th Cir.
24 2003)) (restating the "cardinal rule of statutory interpretation
25 that no provision should be construed to be entirely redundant.").
26 Furthermore, Claimant's position ignores the fact that "the
27 advisory committee's note to this rule contemplates that the
28 government may seek information beyond the claimant's identity and

1 type of property interest" Id. at 642 (citing Supp. R. G
2 Advisory Committee's Note (subsection 6)). This interpretation is
3 in accord with the other lower courts that have considered the
4 scope of Supplemental Rule G(6). See, e.g., United States v.
5 \$307,970, 4:12-CV-136, 2013 WL 4095373, at *3 (E.D.N.C. Aug. 13,
6 2013) ("[P]ermissible interrogatories as to a claimant's
7 relationship to the defendant property may encompass more than just
8 the type of interest asserted in the property.") (citing \$133,420,
9 at 642-43); United States v. \$2,051,660, 07-cv-1338, 2008 WL
10 8723566, at *1 (D. Kans. Sept. 29, 2008) ("[T]he addition of
11 Supplemental Rule G(6) phrase [sic] regarding 'claimant's identity
12 and relationship to the defendant property' must allow more than a
13 mere recitation of the information already required by Supplemental
14 Rule G(5).").

15 Furthermore, unlike in \$133,420, here the Government has not
16 sought admissions or production of documents, which are outside the
17 scope of the Rule and might qualify as "overly broad, burdensome,
18 and oppressive." 672 F.3d at 643 n.5; Kenney Decl. Ex. B.
19 Instead, the interrogatories in this case mirror those endorsed by
20 the Ninth Circuit in \$133,420, which also sought information
21 relevant to (1) the nature of the Claimant's interest, and (2) the
22 means by which the Claimant's interest was acquired (including,
23 among other things, the dates, times, circumstances of each
24 transaction, persons from which the currency was obtained, reasons
25 why it was obtained, and names and contact information for
26 witnesses to transactions in which it was obtained). Id. at 636.
27 In other words, because Plaintiff's interrogatories are all
28 "limited to the claimant's . . . relationship to the defendant

1 property," they are neither outside the scope of the Rule nor
2 impermissibly broad. See Supp. R. G(6)(a).

3 For similar reasons, Claimant is incorrect that compelling
4 answers to interrogatories requires him to "conclusively prove" his
5 case at this stage. Opp'n at 3. While Claimant is right that the
6 burden of proof remains on Plaintiff to establish a connection
7 between the property and illegal drug trafficking, see 18 U.S.C. §
8 983(c)(1), the fact that some of Claimant's interrogatory responses
9 may help or hinder the Plaintiff's cause in carrying that burden
10 does not impermissibly shift the burden onto Claimant. This
11 conclusion is further underscored by the Supplemental Rules' grant
12 of permission for special interrogatories at this stage in the
13 proceedings. Supp. R. G(6)(a), (b) (permitting interrogatories at
14 any time after the claim is filed and before discovery closes and
15 requiring answers be served within 21 days).

16 Finally, Claimant's verified response to Plaintiff's
17 interrogatories raises an additional objection -- that Plaintiff's
18 interrogatories seek information "in violation of Claimant's Fourth
19 Amendment rights against an unreasonable search and seizure of his
20 property and his . . . right . . . to have any evidence obtained as
21 a result of such illegality suppressed in these proceedings and/or
22 any other proceeding." Kinney Decl. Ex. B at 5; see also, e.g.,
23 id. at 6, 8, 10, 12, 14, 16, 18, 20 (raising the same objection).
24 Nevertheless, Claimant's memorandum offers no analysis of this
25 contention. Claimant's argument is, as best as the Court can
26 determine, simply repetitive of his argument, raised in his pending
27 motion to suppress, ECF No. 18, that the evidence obtained from the
28 search of his baggage should be suppressed. Id. To the extent

1 Claimant is asserting an additional objection based on the
2 interrogatories themselves, just as in \$133,420, Claimant has
3 offered no "coherent support for those objections," and the Court
4 similarly rejects them.¹ 672 F.3d at 644.

5

6 **IV. CONCLUSION**

7 The Court therefore finds that Plaintiff's motion should be
8 GRANTED. Nonetheless, the Court notes that Claimant has so far
9 declined to raise any Fifth Amendment objections to these
10 interrogatories. Because "courts must seek to accommodate the
11 defendant's right against self-incrimination in a civil forfeiture
12 proceeding," United States v. Thirteen (13) Mach. Guns, 689 F.2d
13 861, 864 (9th Cir. 1982), nothing in this order should be construed
14 to bar Claimant from raising such an objection.

15 IT IS THEREFORE ORDERED that the United States' Motion to
16 Compel Answers from Julio Figueroa to Special interrogatories is
17 GRANTED.

18 IT IS FURTHER ORDERED that Julio Figueroa shall serve
19 supplemental answers no later than fourteen (14) days from the date
20 of this order.

21

22 Dated: June 30, 2014



23 UNITED STATES DISTRICT JUDGE

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25 ¹ If, on the other hand, Claimant believes that ordering answers to
26 interrogatories would constitute a violation of his Fourth
27 Amendment rights independent of the search and seizure of the
28 currency the Court takes no position on that issue. Should
Claimant wish to raise such an objection they may do so in a motion
for a protective order pursuant to Federal Rule of Civil Procedure
26(d).